

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KELLEY CUNNINGHAM, et al.
Plaintiffs,

- against -

ELECTRONIC DATA SYSTEMS CORP
Defendant.

and

BRIAN D. STEAVENS, et al.,
Plaintiffs,

- against -

**ELECTRONIC DATA SYSTEMS
CORPORATION**
Defendant.

JUDGE RICHARD J. HOLWELL

CASE NO. 1:06-cv-03530-RJH

and

CASE NO. 1:08-cv-10409-RJH

**DECLARATION OF MARTIN T. WYMER, ESQ. IN SUPPORT OF MEMORANDUM
IN OPPOSITION TO PLAINTIFF'S MOTION FOR CONDITIONAL
CERTIFICATION AND COURT-AUTHORIZED NOTICE**

I, Martin T. Wymer, being of lawful age and of sound mind, and having personal knowledge of the following facts, declare as follows:

1. I am admitted to the bar of this Court *pro hac vice*, as well as a number of other federal courts, and am a Partner at the law firm Baker Hostetler, LLP.
2. I submit this declaration in support of Defendant's Memorandum In Opposition To Plaintiffs' Motion For Conditional Certification and Court-Authorized Notice.
3. Attached as Exhibit 1 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Rick Ahlberg.

4. Attached as Exhibit 2 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Paul Barrix.

5. Attached as Exhibit 3 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff James Brignola.

6. Attached as Exhibit 4 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Gregory Brousseau.

7. Attached as Exhibit 5 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff John Confar.

8. Attached as Exhibit 6 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Rod Deluhery.

9. Attached as Exhibit 7 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Donna Geary.

10. Attached as Exhibit 8 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Hugo Hernandez.

11. Attached as Exhibit 9 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Robert Schwab.

12. Attached as Exhibit 10 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Edward Conklin.

13. Attached as Exhibit 11 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Tamara Goldberg.

14. Attached as Exhibit 12 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Robert Sanetz.

15. Attached as Exhibit 13 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Dennis Duley.

16. Attached as Exhibit 14 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff James McCann.

17. Attached as Exhibit 15 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Milton Fugitt.

18. Attached as Exhibit 16 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Patrick Brown.

19. Attached as Exhibit 17 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Jennifer Hightower.

20. Attached as Exhibit 18 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Mary Ham.

21. Attached as Exhibit 19 hereto is a true and accurate copy of excerpts of the deposition of Plaintiff Leslie Char.

22. Attached as Exhibit 20 hereto is a true and accurate copy of excerpts of the deposition of EDS Rule 30(b)(6) Representative Michael Evans.

23. Attached as Exhibit 21 hereto is a true and accurate copy of an e-mail from Plaintiff Rod Deluhery, dated February 18, 2009, which was introduced as an exhibit during his deposition.

24. Attached as Exhibit 22 hereto is a true and accurate copy of an e-mail from Plaintiff Rod Deluhery, dated November 13, 2008, which was introduced as an exhibit during his deposition.

25. Attached as Exhibit 23 hereto is a true and accurate copy of an e-mail from Plaintiff Rod Deluhery, dated August 4, 2004, which was introduced as an exhibit during his deposition.

26. Attached as Exhibit 24 hereto are true and accurate copies of proposals from a business entity known as PRIDE, which were introduced as exhibits during Rod Deluhery's deposition.

27. Attached as Exhibit 25 hereto is a true and accurate copy of a an e-mail from Martin T. Wymer, Esq. dated August 14, 2009, to Plaintiffs' counsel in this case.

28. Attached as Exhibit 26 hereto is a true and accurate copy of a resume bearing the name of Plaintiff Rod Deluhery, which was introduced as an exhibit during his deposition.

29. Attached as Exhibit 27 hereto is a true and accurate copy of a series of e-mails to and from Plaintiff Jennifer Hightower from 2005 and 2006 which were introduced as an exhibit during her deposition.

30. Attached as Exhibit 28 hereto is a true and accurate copy of an e-mail series from Plaintiff Jennifer Hightower, dated October 9, 2002 and December 11, 2002, which was introduced as an exhibit during her deposition.

31. Attached as Exhibit 29 hereto is a true and accurate copy of Plaintiff Jennifer Hightower's EDS 2007 Period 1 Performance Assessment, which was introduced as an exhibit during her deposition.

32. Attached as Exhibit 30 hereto is a true and accurate copy of an e-mail to me from Plaintiff's counsel Brian Bromberg, Esq. dated January 26, 2010.

33. Attached as Exhibit 31 are true and accurate copies of materials available on Cisco System Inc.'s internet webpage regarding its Cisco Certified Design Associate Certification.

34. Attached as Exhibit 32 are true and accurate copies of materials available on Cisco System Inc.'s internet webpage regarding its Cisco Certified Network Associate Certification.

35. Attached as Exhibit 33 are true and accurate copies of materials available on Cisco System Inc.'s internet webpage regarding its Cisco Certified Network Professional Certification.

36. Attached as Exhibit 34 are true and accurate copies of materials available on Microsoft's internet webpage regarding its Microsoft Certified Systems Engineer Certification.

37. Attached as Exhibit 35 is a true and accurate copy of Plaintiff Hugo Hernandez's EDS Job Survey Questionnaire, which was introduced as an exhibit during his deposition.

38. Attached as Exhibit 36 is a true and accurate copy of Plaintiff Gregory Brousseau's EDS Job Survey Questionnaire, which was introduced as an exhibit during his deposition.

39. Attached as Exhibit 37 is a true and accurate copy of Plaintiff Tamara Goldberg's EDS Job Survey Questionnaire, which was introduced as an exhibit during her deposition.

40. Attached as Exhibit 38 is a true and accurate copy of Plaintiff Rod Deluhery's Answers to EDS' Requests for Admissions.

41. Attached as Exhibit 39 is a true and accurate copy of an Enterprise IA Analysts Roles and Responsibilities chart, which was introduced as an exhibit during the deposition of Plaintiff Leslie Char.

42. Attached as Exhibit 40 is a true and accurate copy of excerpts from EDS' Form 10-K, which was filed with the United States Securities and Exchange Commission in 2007.

43. Attached as Exhibit 41 is a true and accurate copy of Plaintiff Gregory Brousseau's resume, which was introduced as an exhibit during his deposition.

44. Attached as Exhibit 42 is an exhibit organizing the relevant deposition and declaration testimony to aid the Court's consideration of the issues.

45. Attached as Exhibit 43 is a verbatim recitation of the job code descriptions for Plaintiffs' proposed classes which were previously produced to Plaintiffs' counsel on documents Bates numbered EDS (Plaintiffs Group) 0007844, 0007971-0007972, 0008095-0008096, 0008515-0008517, 0008776-0008777 and 0008893-0008894.

46. Attached as Exhibit 44 is a true and accurate copy of the declaration of Jennifer Miner.

47. Attached as Exhibit 45 is a true and accurate copy of the declaration of Michael Evans.

48. Attached as Exhibit 46 is a true and accurate copy of the declaration of Becky Simeon.

49. Attached as Exhibit 47 is a true and accurate copy of the declaration of Suzy Arnold.

50. Attached as Exhibit 48 is a true and accurate copy of the declaration of May-Wah Chu.

51. Attached as Exhibit 49 is a true and accurate copy of the declaration of Mike Shanks.

52. Attached as Exhibit 50 is a true and accurate copy of the declaration of Daryn Bartlett.

53. Attached as Exhibit 51 is a true and accurate copy of the declaration of Richard Digiovine.

54. Attached as Exhibit 52 is a true and accurate copy of the declaration of Roy Lawson.

55. Attached as Exhibit 53 is a true and accurate copy of the declaration of Keith McConnell.

56. Attached as Exhibit 54 is a true and accurate copy of the declaration of Jerry McIlroy.

57. Attached as Exhibit 55 is a true and accurate copy of the declaration of Daniel Woo.

58. Attached as Exhibit 56 is a true and accurate copy of the declaration of Nathan Yonney.

59. Attached as Exhibit 57 is a true and accurate copy of the declaration of Deborah Donovan.

60. Attached as Exhibit 58 is a true and accurate copy of the declaration of James Bates.

61. Attached as Exhibit 59 is a true and accurate copy of the declaration of William Kuhns.

62. Attached as Exhibit 60 is a true and accurate copy of the declaration of Lincoln Eldridge.

63. Attached as Exhibit 61 is a true and accurate copy of the declaration of Lisa Amthor.

64. Attached as Exhibit 62 is a true and accurate copy of the declaration of James Bintzler.

65. Attached as Exhibit 63 is a true and accurate copy of the declaration of Patrick Claussen.

66. Attached as Exhibit 64 is a true and accurate copy of the declaration of Michele Czaja.

67. Attached as Exhibit 65 is a true and accurate copy of the declaration of Kenneth Davies.

68. Attached as Exhibit 66 is a true and accurate copy of the declaration of Gene Hensley.

69. Attached as Exhibit 67 is a true and accurate copy of the declaration of Tamara Kress.

70. Attached as Exhibit 68 is a true and accurate copy of the declaration of Matthew Kukla.

71. Attached as Exhibit 69 is a true and accurate copy of the declaration of Pete Meendering.

72. Attached as Exhibit 70 is a true and accurate copy of the declaration of James Miller.

73. Attached as Exhibit 71 is a true and accurate copy of the declaration of William Stephenson.

74. Attached as Exhibit 72 is a true and accurate copy of the declaration of Phillip Sullenger.

75. Attached as Exhibit 73 is a true and accurate copy of the declaration of Mark Tharby.

76. Attached as Exhibit 74 is a true and accurate copy of the declaration of Clarice Smith.

77. Attached as Exhibit 75 is a true and accurate copy of the declaration of Linda Imwalle.

78. Attached as Exhibit 76 is a true and accurate copy of the declaration of Michael Allain.

79. Attached as Exhibit 77 is a true and accurate copy of the declaration of Gary Wheeler.

80. Attached as Exhibit 78 is a true and accurate copy of the declaration of Richard Wood.

81. Attached as Exhibit 79 is a true and accurate copy of the declaration of John Hervey.

82. Attached as Exhibit 80 is a true and accurate copy of the declaration of Loretta Sim.

83. Attached as Exhibit 81 is a true and accurate copy of the declaration of Elizabeth Disch.

84. Attached as Exhibit 82 is a true and accurate copy of the declaration of Michelle Alex.

85. Attached as Exhibit 83 is a true and accurate copy of the declaration of Jeff Elkoury.

86. Attached as Exhibit 84 is a true and accurate copy of the declaration of Dean McGeachy.

87. Attached as Exhibit 85 is a true and accurate copy of the declaration of Stephen M. Mann.

88. Attached as Exhibit 86 is a true and accurate copy of the declaration of Robin Briggs.

89. Attached as Exhibit 87 is a true and accurate copy of the declaration of Mitchell L. Stevens.

90. Attached as Exhibit 88 is a true and accurate copy of the declaration of Peter Cantillon.

91. Attached as Exhibit 89 is a true and accurate copy of the declaration of Rich Borowicz.

92. Attached as Exhibit 90 is a true and accurate copy of the declaration of Lori Larson.

93. Attached as Exhibit 91 is a true and accurate copy of the declaration of Michael Hoke.

94. Attached as Exhibit 92 is a true and accurate copy of the declaration of Angeline Sorenson.

95. Attached as Exhibit 93 is a true and accurate copy of the declaration of Shawne Samuelson.

96. Attached as Exhibit 94 is a true and accurate copy of the declaration of Gregory Hoare.

97. Attached as Exhibit 95 is a true and accurate copy of the decision *Eng-Hatcher v. Sprint Nextel Corp.*, S.D.N.Y. Case No. 07 Civ. 7350 (BSJ).

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 7, 2010 at Cleveland, Ohio.

Dated May 7, 2010

Martin T. Wymer
Martin T. Wymer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 7, 2010, a true and correct copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

Martin T. Wymer
Martin T. Wymer

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